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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,072	07/11/2003	Brian Dentler	020375-007210US	3588
20350	7590	07/21/2008		
TOWNSEND AND TOWNSEND AND CREW, LLP			EXAMINER	
TWO EMBARCADERO CENTER			WONG, ERIC TAK WAI	
EIGHTH FLOOR			ART UNIT	PAPER NUMBER
SAN FRANCISCO, CA 94111-3834			3693	
			MAIL DATE	DELIVERY MODE
			07/21/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/618,072	<b>Applicant(s)</b> DENTLER ET AL.
	<b>Examiner</b> ERIC T. WONG	<b>Art Unit</b> 3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

#### Status

- 1) Responsive to communication(s) filed on 29 April 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-26 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08e)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1, 13, 18, and 24 have been considered but are moot in view of the new ground(s) of rejection.
2. Since Applicant did not challenge the Official Notice taken with regards to claims 6-8, 17, 22-23, and 25 in the previous Office Action, the limitations of those claims are now construed as Applicant admission of prior art.

***Claim Rejections - 35 USC § 103***

3. Claims 1-5, 9-16, 18-21, 24, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Winking (U.S. PG-Pub 2003/0167231 A1) in view of FICO score, as evidenced by Crawford (U.S. PG-Pub 2003/0046223 A1).

**Regarding claims 1, 18, and 24,**

Winking teaches retrieving a history of profile records for a credit account over a period of time preceding receipt of the payment, each such profile record corresponding to a date within the period of time and including an account balance for the credit account on the date and a value of credit payments made towards the credit account on the date (see paragraphs 24 and 25).

Winking teaches determining whether to perform one of the following: float the payment, float part of the payment and apply the rest of the payment, and apply the payment in full (see paragraphs 24 and 25). Examiner notes that the language of the claim, ie. "determining whether to perform one of the following:", only requires one of the listed steps to be performed.

Therefore, the limitation, “float part of the payment and apply the rest of the payment” does not limit the claim’s scope.

Winking does not explicitly teach based on an analysis of the retrieved history of profile records, generating a behavior score associated with the credit account, wherein the behavior score assigns a level of risk to the credit account; and based on the behavior score, determining whether to perform one of the following: float the payment, float part of the payment and apply the rest of the payment, and apply the payment in full.

FICO score teaches based on an analysis of a retrieved history of profile records, generating a behavior score which is used to represent the creditworthiness of a person, wherein the behavior score assigns a level of credit risk to the person (see abstract, paragraphs 5-12).

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the determining of Winking to make the determination based on a behavior score as taught by FICO. One skilled in the art would have been motivated to make the modification because behavior scores provide an easy way to represent credit risk.

**Regarding claims 2, 19, and 26,**

Winking et al. teaches indicating whether any prior payments are floating on the date (see paragraph 25). Examiner notes the reference as teaching floating payments and indicating the number of days since the last payment was applied to the credit account for the purposes fraud detection. Examiner asserts that the indication of the number of days since the last payment was applied is equivalent to indicating whether any prior payments are floating on the date.

**Regarding claims 3 and 20,**

Winking et al. teaches including the number of credited payments made towards the credit account within a time window preceding the date (see paragraph 24).

**Regarding claims 4 and 21,**

Winking et al. teaches including a cumulative value of credited payments made towards the credit account within a time window preceding the date (see paragraph 25).

**Regarding claim 5,**

Winking et al. teaches wherein the time window is at least as great as an expected time for the payment to clear. Examiner notes the reference teaches a 30 day time period (see paragraph 25). This is at least as great as an expected time for payment to clear, which is typically a few days.

**Regarding claim 9,**

Winking et al. teaches considering the number of credited payments floated over the period of time (see paragraphs 24 and 25).

**Regarding claim 10,**

Winking et al. teaches considering the number of credited payments made over the period of time (see paragraph 24).

**Regarding claims 11 and 15,**

Winking et al. teaches determining a fraction of the payment to float; and determining a time to hold a remainder of the payment (see paragraph 24).

**Regarding claim 12,**

Winking et al. teaches determining whether the payment comprises a cash or cash-equivalent payment (see paragraph 24).

**Regarding claim 13,**

Winking et al. teaches maintaining a history of profile records for the credit account, each such profile record corresponding to a date and including an account balance for the credit account on the date and an indication whether any prior payments are floating on the date; determining a new profile record in response to receipt of a payment towards the credit account or of a request for a charge against the credit account; adding the new profile record to the history of profile records; and determining whether to float a payment to the credit account from an analysis of the history of profile records (see paragraphs 24 and 25).

**Regarding claim 14,**

Winking et al. teaches determining whether to float the payment (see paragraph 24).

**Regarding claim 16,**

Winking et al. teaches analyzing a plurality of profile records retrieved from the history (see paragraph 24).

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4. Claims 6-8, 17, 22-23, and 25 rejected under 35 U.S.C. 103(a) as being obvious over Winking et al. in view of FICO, further in view of Applicant admission of prior art.

**Regarding claim 6,**

Winking et al. does not explicitly teach wherein the period of time has a length at least as great as an expected time for the payment to clear. Applicant admission of prior art teaches credit histories spanning time periods at least as great as an expected time for a payment to clear, which is typically a few days, were old and well known in the art at the time of invention. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the determining whether to float a payment of Winking et al. with having the history of profile records for the credit account span a time period at least as great as an expected time for a payment to clear. One skilled in the art would have been motivated to make the modification for the benefit of reducing the risk that payments do not clear.

**Regarding claims 7, 17, and 22,**

Winking et al. teaches analyzing a history of profile records to determine whether or not to float a payment but does not explicitly teach determining behavior scores. Applicant admission of prior art teaches that behavior scores were old and well known in the art at the time of invention, an example being FICO credit score. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the profile records of Winking et al. to include behavior scores. One skilled in the art would have been motivated to make the modification for the benefit of convenience.

**Regarding claim 8, 23, and 25,**

Winking et al. does not explicitly teach developing a worst-case profile from the history of profile records. Applicant admission of prior art teaches that developing a worst-case scenario when evaluating a credit history was old and well-known in the art at the time of invention. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the determining whether to float a payment based on a history of profile records of Murphy et al. with developing a worst-case profile. One skilled in the art would have been motivated to make the modification for the benefit of reducing risk of payments not clearing.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ERIC T. WONG whose telephone number is 571-270-3405. The examiner can normally be reached on Monday-Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

ERIC T. WONG  
Examiner  
Art Unit 3693

July 14, 2008